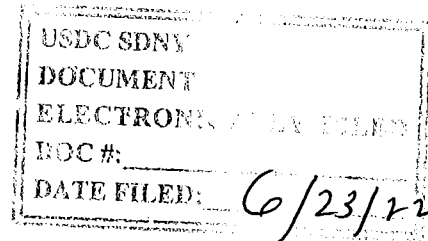


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
FIRE GROUND TECHNOLOGIES, LLC, and :
NYC POLICE OFFICER LAWRENCE COHEN, :
individually, :
Plaintiffs, :
v. :
HOMETOWN RESTORATION, LLC, and :
THOMAS A. KEITH, individually :
Defendants. :
-----X



ORDER

22 CV 4558 (VB)

On November 10, 2021, the instant breach of contract action was removed from the Superior Court of New Jersey to the U.S. District Court for the District of New Jersey by defendant Hometown Restoration, LLC (“Hometown Restoration”) (Doc. #1), the debtor in a bankruptcy proceeding currently pending before Judge Robert D. Drain of the U.S. Bankruptcy Court for the Southern District of New York, Case No. 21-22213 (the “Bankruptcy Action”).

By Opinion and Order dated May 16, 2022, Magistrate Judge Leda Dunn Wettre granted Hometown Restoration’s motion to transfer this action to the U.S. District Court for the Southern District of New York, “with the assumption that [it] will be referred to the Bankruptcy Court in White Plains.” (Doc #9 at 3). In light of plaintiffs’ arguments that the only remaining party in this action is Hometown Restoration’s owner, defendant Thomas A. Keith, who is not a debtor in the Bankruptcy Action, Judge Wettre “defer[red] to the Bankruptcy Court to determine for itself whether removal of this action was proper, whether the state court breach of contract action is core or non-core, and whether it will hear the case or remand it to the Superior Court of New Jersey.” (*Id.* at 6).

Accordingly, this action was transferred to this Court on June 2, 2022.

By letter motions dated June 13 and June 14, 2022, Hometown Restoration argues this action should be transferred to Judge Drain as a case related to the Bankruptcy Action under 28 U.S.C. § 157(a). (Docs. ##13, 15).

The Court agrees.

“Each district court may provide that any or all cases under title 11 and any or all proceedings . . . related to a case under title 11 shall be referred to the bankruptcy judges for the district.” 28 U.S.C. § 157(a).

On January 31, 2012, then-Chief Judge Loretta A. Preska issued an “Amended Standing Order of Reference,” providing that “any or all cases under title 11 and any or all proceedings . . . related to a case under title 11 are referred to the bankruptcy judges for this district.” Amended

Standing Order of Reference, In re Standing Order of Reference Re: Title 11, 12 Misc. 32, M-431 (S.D.N.Y. Jan. 31, 2012).¹

An action is related to a pending bankruptcy case if “the outcome [of the instant action] could alter the debtor’s rights, liabilities, options, or freedom of action,” and affect “the handling and administration of the bankrupt estate.” Gisinger v. Patriach, 2016 WL 6083981, at *3 (S.D.N.Y. Oct. 18, 2016). Put another way, an action is related to a pending bankruptcy case when the outcome of the instant action might have a “conceivable effect” on the debtor’s estate. In re Cuyahoga Equip. Corp., 980 F.2d 110, 114 (2d Cir. 1992).

For substantially the reasons stated in Judge Wettre’s Opinion and Order, the Court agrees that this action will have a conceivable effect on Hometown Restoration’s estate in the Bankruptcy Action, such that it is “related to” the Bankruptcy Action and should be transferred to Judge Drain. To be clear, the Court defers all outstanding issues regarding remanding or severing this case—including the severance issue raised in plaintiffs’ letters dated June 14 and June 15, 2022 (Docs. ##14, 16)—to Judge Drain.

For the reasons above, it is HEREBY ORDERED:

Pursuant to 28 U.S.C. § 157(a) and the Court’s Amended Standing Order of Reference, the Clerk is directed to transfer the above-captioned case to U.S. Bankruptcy Judge Robert D. Drain, as related to In re Hometown Restoration, LLC, 21-22213 (S.D.N.Y. Bankr.) (filed April 15, 2021).

The Clerk is directed to terminate the letter motions. (Docs. ##13, 15).

Dated: June 23, 2022
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge

¹ The Amended Standing Order of Reference is available on this District’s Bankruptcy Court website, at the following address:
<http://www.nysb.uscourts.gov/sites/default/files/m431.pdf>.